

REMARKS

Claims 1-27 remain pending in the application and stand rejected.

The office action reminded the applicants of the form of the abstract, but made no formal objection to the abstract as filed. Nonetheless, applicants have amended the abstract as indicated above, and they believe it to be in acceptable form.

Claims 1-4, 7-14, 17, 19-22 and 25-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Appleman et al. (US 6,539,421 B1) in view of Matsumoto et al. (US 2002/0023138 A1). Claims 5, 6, 15, 16, 23 and 24 are rejected under 35 U.S.C. § 103(a) as bring unpatentable over Appleman in view of Matsumoto and in further view of Golan (US 2002/0194278 A1). Claim 18 is rejected under 35 U.S.C. § 103(a) as bring unpatentable over Appleman in view of Matsumoto and in further view of Isaacs et al. (US 2002/0026483 A1). Applicants traverse the rejections and request reconsideration.

Applicants agree with the examiner that Appleman fails to teach or suggest arranging real-time communication messages based upon a message creation reference. Applicants do not otherwise address the characterization of Appleman put forward by the examiner in the office action, and reserve the right to traverse such characterization.

Applicants also do not address the characterization of the Matsumoto reference or the motivation of one skilled in the art to combine the teaching of Matsumoto with Appleman or Golan. Instead, as discussed below, applicants submit Matsumoto is not prior art to the present application. Matsumoto is a US patent publication based upon an application for patent in the United States filed March 13, 2001. The priority application of Matsumoto is JP 2000-250135, filed August 21, 2000, before November 29, 2000. Therefore, Matsumoto is only available as prior art under 35 U.S.C. § 102(e) with an effective date of March 13, 2001.

Similarly, applicants do not address the characterization of the Golan reference or the motivation of one skilled in the art to combine the teaching of Golan with Appleman or Matsumoto. Instead, as discussed below, applicants submit Golan is not prior art to the present application. Golan is a US patent publication based upon an application for patent in the United States filed April 3, 2001. Therefore, Golan is only available as prior under 35 U.S.C. § 102(e) with an effective date of April 3, 2001.

Applicants also do not address the examiner's characterization of the Isaacs reference or the motivation to combine this reference with Appleman, Matsumoto or Golan but reserves the right to traverse the same if necessary.

Applicants submit herewith the Declaration of two of the co-inventors Messrs. Soeren H. Thomsen and Kevin C. Mowry establishing invention in the United States and diligence at least as early as March 13, 2001. By establishing invention and diligence in the United States prior to March 13, 2001, Matsumoto and Golan are not prior art to the instant application. Since the rejection of the claims under 35 U.S.C. § 103(a) is based on Appleman in view of Matsumoto; Appleman in view of Matsumoto and in further view of Golan, or Appleman in view of Appleman in view of Matsumoto and in further view of Isaacs, applicants submit the examiner has not met his burden of establishing a prima facie case of obviousness under 35 U.S.C. § 103(a). Therefore, applicants submit claims 1-27 are allowable, and such action is solicited.

The examiner is encouraged to contact the applicants' undersigned attorney with any questions regarding this response or the application as a whole. Since the application is in a condition for allowance, such action is requested at the examiner's earliest convenience.

If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855. Applicants respectfully request reconsideration and withdrawal of the rejection of the claims at issue and allowance thereof.

Respectfully submitted for,
MARSHALL, GERSTEIN & BORUN LLP

July 28, 2003

By:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

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